

Regular Meeting of February 14, 2012

ROLL CALL

COUNCILMEMBERS PRESENT: Feierbach, Lieberman, Wozniak, Braunstein, Warden

COUNCILMEMBERS ABSENT: None

Staff Present: City Manager Scoles, City Attorney Rennie, Police Chief Mattei, Community Development Director de Melo, Finance Director Fil, Public Works Director Oskoui, Human Resources Director Dino, Senior Planner di Donato, Police Captain DeSmidt, City Treasurer Violet, City Clerk Cook

PLEDGE OF ALLEGIANCE

Led by Interim Fire Chief Fry

SPECIAL PRESENTATIONS

Proclamation Honoring Paul Mesa for Heroic Efforts Involved in the Carlmont Drive Fire

Interim Fire Chief Fry described the incident in January of 2011 wherein Paul Mesa alerted residents in an apartment building of a fire in the building, and subsequently saved his pregnant wife by catching her as she jumped from a balcony.

Mayor Warden presented Mr. Mesa with a Proclamation.

RECESS: 7:40 P.M. (to consider Belmont Fire Protection District Agenda)

RECONVENE: 8:00 P.M.

SPECIAL PRESENTATIONS (continued)

Legislative Update from Senator Leland Yee

Senator Yee noted that the legislative session had just begun for the year. He provided a brief update of State budget activities and noted that competing revenue measures would be placed on the November 2012 ballot. He described pending legislation regarding redevelopment agency dissolution and noted that the Governor's budget relies on redevelopment agency monies coming into the General Fund.

Senator Yee discussed high speed rail and acknowledged that the High Speed Rail Authority did not do a good job with its outreach program, and that there is no consensus regarding the Bay Area and Central Coast alignments. He noted that although the Central Valley spur is to be built first, that region is not where the ridership is located. He described the pending legislation that will disburse funds to commence construction. He noted that he did not support the plan.

Senator Yee announced staffing changes for his offices and introduced new staff.

In response to Council questions and comments, Senator Yee clarified that the High Speed Rail Authority recognizes the need for a blended system, for which there is consensus on the Peninsula. He expressed concern that money would be spent in the Central Valley and there would be no funds remaining for the Bay Area.

In response to Councilmember Braunstein, Senator Yee explained that the State budget has a contingency plan if the November revenue measures do not pass. He acknowledged that housing requirements absent the redevelopment agency structure becomes an unfunded mandate. He stated that there may be other obligations that the State will need to review in addition to housing regarding the redevelopment dissolution. He explained that the legislature is discussing potential shortening of the school year, and that it is trying to minimize the impact to schools.

Councilmember Lieberman requested that the Senator provide whatever assistance he can on the redevelopment issue.

Mayor Warden requested that the Senator remain strong regarding his position on high speed rail. He expressed concern regarding the expenditure of dollars for a project that may never happen.

Senator Yee stated that the High Speed Rail Business Plan was deemed inadequate though a peer review process, and he explained that there are no monies to build the entire system. He clarified that he did not vote for the redevelopment agency dissolution legislation.

PUBLIC COMMENTS AND ANNOUNCEMENTS

Kathleen Beasley, Belmont Library Manager, announced that the library now has a wide range of books available for E-readers, which can be checked out on line.

Joan Dentler, Belmont Patch, shared comments received on a recent blog spot on Patch inviting people to comment about what they love about Belmont. She explained that a new history and trivia section is forthcoming for the website.

Mike Swire, Hillsborough resident, noted that the Green Advisory Committee (GAC) brought four policy issues to the City Council a year ago and expressed his hope that they are still a priority. He noted that the County of San Mateo has adopted an ordinance banning polystyrene, which many cities have adopted by reference, and that some cities are enacting their own ordinances.

COUNCIL MEMBER COMMENTS AND ANNOUNCEMENTS

Councilmember Feierbach stated that she attended a recent meeting at Carlmont High School regarding their proposal to install lights on their playing field. She noted that she met with the principal at Carlmont as well as at Charles Armstrong School.

CONSENT CALENDAR

Councilmember Feierbach stated that while she would be voting for the Consent Agenda, she wished to register a no vote on the Minutes of the Special Meeting of December 19, 2011. In response to Mayor Warden, Public Works Director Oskoui indicated that the police motorcycle being replaced will be sold at auction.

Approval of Minutes of Special Meeting of December 19, 2011 (Councilmember Feierbach no), Regular Meeting of January 10, 2012, Joint Meeting with the Planning Commission of January 17, 2012, and Regular Meeting of January 24, 2012

Motion to Receive Monthly Financial Reports

Approval of Resolution 2012-014 Approving Specifications, Authorization to Advertise, and Approving Award of a Purchase Contract to the Lowest Responsible Bidder for the Acquisition and Outfitting of a 2012 Harley Davidson Police Motorcycle for an Amount not to Exceed \$50,000

Approval of Resolution 2012-015 Approving City of Belmont Investment Policy

Approval of Resolution 2012-016 Authorizing Amendment No. 1 to the Professional Services Agreement with IEDA Inc. for Labor Relations Consulting in an amount not to exceed \$11,800 Annually for Two Years

Approval of Resolution 2012-017 Authorizing the City Manager to Apply for Energy Efficiency and Conservation Phase 2 Small City and County Grant Program Funds in the amount of \$230,000

ACTION: On a motion by Councilmember Feierbach, seconded by Councilmember Wozniak, the consent Agenda was unanimously approved by a show of hands (Councilmember Feierbach voted no on the Minutes of December 19, 2011).

HEARINGS

Public Hearing to Consider a Resolution Vacating a Portion of Alhambra Drive and Reserve a 5' Public Utility Easement Adjacent to the Two Parcels (APNs 043-232-080 and 043-232-230), and Public Hearing to Consider Lot Line Adjustment and Floor Area Transfer, Including Acceptance of Conservation Easement

Senior Planner di Donato noted that the City Council denied the appeal of the design review for this project in December, and explained that additional entitlements are needed which include vacation of right-of-way, a lot line adjustment, floor area transfer, and dedication of a conservation easement. He explained that an amended resolution was provided for the right-of-way vacation to clarify the findings to be made. He reviewed the findings for all of the entitlement, and explained that the vacation of right-of-way requires a 4/5 vote.

In response to Councilmember Feierbach, Senior Planner di Donato explained that the San Juan Hills Area Plan policy was developed to eliminate any lots that should not be developed, and to transfer the floor area to a more reasonable location. In response to Mayor Warden, he clarified that an owner can take steps to prove that a geotechnical hazard no longer exists on a parcel, or they can correct the hazard.

Community Development Director de Melo provided details on how hazard corrections and mitigations can be achieved. He explained that the sending lot does not have to meet any level of geotechnical hazard in order to send the floor area. He clarified that only one applicant has ever provided information on the mitigation of a hazard, but that the single family application never materialized.

In response to Councilmember Wozniak, City Attorney Rennie explained that the finding of public convenience can be met with the narrow roadway. Community Development Director de

Melo explained that the current roadway is 32.5 feet and that the City has no intention of widening the street at the location of the proposed development. Senior Planner di Donato further explained that vacating the right-of-way would provide relief to the City from the liability of maintaining the right-of-way, and makes for a more environmentally sensitive project.

Discussion ensued.

Mayor Warden opened the Public Hearing.

Jeff Rice, on behalf of the project applicant, reviewed the original driveway proposal absent the vacation of right-of-way. He noted that it would require excessive grading and tree removal. He stated that upper and lower Alhambra Way would not likely ever be connected or widened. He described the street standard, which includes curb and gutter, and pointed out that Alhambra does not have any sidewalks. He stated that the alternative would be a less attractive home placement.

Tim Robertson, Belmont resident, concurred that although the vacation of the right-of-way provides for a better project, he expressed concern that it would create precedence for other properties in the area. He stated that the floor area transfer sending lot is on Monte Cresta Way, and noted that the policy requires that it be on the same street as the receiving lot, which is on Alhambra Way. He noted that Monte Cresta is an unimproved roadway that does not meet the State Highway Code description of a road.

Community Development Director de Melo clarified that the Belmont Zoning Ordinance does not require the sending lot to be on an improved roadway. He explained that both receiving lots have frontage on both streets, and he clarified that the proposed floor area transfer meets the criteria. He stated that the roadway improvement is only required if the project is to be built on an unimproved road, which this project is not. He further clarified that the street vacation provides for better home siting, and does not provide any additional square footage for the proposed home.

In response to Councilmember Lieberman, Community Development Director de Melo clarified that previous floor area transfers have been made from properties on unimproved streets.

ACTION: On a motion by Councilmember Feierbach, seconded by Councilmember Wozniak, the Public Hearing was unanimously closed by a show of hands.

Mayor Warden expressed concern regarding the finding of public benefit, which he pointed out is not a trivial finding.

Councilmember Wozniak concurred and stated that there is a difference between a public benefit and convenience to the applicant. She expressed concern regarding transferring floor area from an unbuildable lot.

City Attorney Rennie clarified that the finding states that the action be for public necessity and convenience, not benefit.

RECESS: 9:30 P.M.
RECONVENE: 9:40 P.M.

City Attorney Rennie explained that he converted statutory language regarding the finding into more easily understood verbiage. He cited the archaic language from the statute, which was written in the 1940's.

Councilmember Lieberman stated that he can make the finding, and stated that the City has no intention of widening the road. He stated this would not set precedence, and made note of the fact that the vacation of right-of-way makes for a better project for the neighborhood and the public.

Mayor Warden acknowledged that the finding of public benefit is not included in the code and the finding to be made is different than that for an encroachment permit.

ACTION: On a motion by Councilmember Lieberman, seconded by Councilmember Braunstein, to approve a Resolution Vacating a Portion of Alhambra Drive and Reserve a 5' Public Utility Easement Adjacent to the Two Parcels (APNs 043-232-080 and 043-232-230) failed by a roll call vote (3-2, Wozniak/Feierbach no).

City Clerk Cook noted that the motion failed due to the requirement of four affirmative votes for approval.

Councilmember Feierbach expressed concern regarding setting precedence by approving the vacation of right-of-way. She noted that there were many properties in the San Juan Canyon area that could apply for a similar entitlement if this one is approved. She recommended a smaller home with no vacation of right-of-way.

Councilmember Wozniak recommended a smaller home that respects the land.

Councilmember Lieberman expressed concern that with this action the City Council was indicating that a 40-foot roadway, as outlined in the Streets and Highways Code, is appropriate for Alhambra Way.

Councilmember Wozniak clarified that she did not indicate that a 40-foot roadway is appropriate for this street.

Community Development Director de Melo explained that the applicant could seek an encroachment agreement. In response to Councilmember Braunstein, he indicated that the neighboring homes ranged from 2,000 to 2,700 square feet in size. He explained that alternatives to accessing the property include a driveway that traverses the right-of-way, which will require the installation of retaining walls. He noted that the project would require redesign.

Senior Planner di Donato clarified that the proposed home would be the 17th largest of the 34 included in the survey, and the floor area ratio (FAR) would be half of the average.

OLD BUSINESS

Administrative Code Enforcement Team (ACET) Informational Report Update

Community Development Director de Melo stated that the City implemented an enhanced code enforcement program in the fall of 2010, in which it moved from a reactive to a proactive approach. He explained that issues with staffing and lack of resources have halted the proactive program, and the recent dissolution of the redevelopment agency affects code enforcement. He clarified that staff continues to respond to complaints, and he noted that the Administrative Code Enforcement Team (ACET) program will be reassessed at the mid-year budget review.

Discussion ensued regarding the use of volunteers to assist with code enforcement.

Community Development Director de Melo stated that there is a need to create a structure to be able to use volunteers, as there is a concern regarding issuing citations.

Councilmember Feierbach described the City of Redwood City's code enforcement program which uses volunteers who have no contact with violators. She expressed concern regarding the proliferation of real estate signs in the public right of way, and acknowledged that some agents are in compliance. She stated that some code problems take too long to resolve, and too much staff time is involved with enforcement of long-standing issues.

Mayor Warden expressed support for the uses of volunteers at some level, and would also support the allocation of Community Service Officer (CSO) time to address code enforcement.

Police Captain DeSmidt explained that the two CSO's spend some time on code issues, but primarily address parking enforcement. He noted that they are not able to service all timed parking areas on a daily basis. He expressed support for the use of volunteers to identify violations.

Councilmember Wozniak noted that weekend violations are the most acute problem.

Community Development Director de Melo stated that the new program could provide for weekend enforcement.

Kristin Mercer, Belmont resident, stated that the City worked hard to develop a new sign ordinance that is not being enforced, as many businesses are out of compliance. She stated that selective code enforcement is inequitable, and enforcement should not involve a bureaucratic process.

Councilmember Feierbach stated that some neighborhoods complain more than others, and code issues differ by neighborhood.

Mayor Warden expressed the need for accountability, and concur that selective enforcement is occurring.

Councilmember Braunstein expressed concern for the cost associated with issues that are not addressed quickly. He is also concerned with the current structure of enforcement. He suggested

that issues be prioritized, with safety being the top priority. He expressed his desire to not micromanage the program, and is concerned with staff being diverted from other priorities.

Councilmember Lieberman expressed support for the use of volunteers who would have no contact or issue citations. He noted that 1100 cases were opened and closed in 2011, which is significant. He suggested that this is a resource issue.

Councilmember Wozniak expressed a desire for a more streamlined process and would like more feedback regarding code issues. She stated that feedback needs to be provided to the complainant.

MEETING EXTENSION: At this time, being 10:30 p.m., on a motion by Councilmember Feierbach, seconded by Councilmember Wozniak, the meeting was extended for 30 minutes by a show of hands (4-1, Braunstein no).

Consideration of Resolution Confirming Belmont as a Participating Agency in the EIR Process for the San Mateo County-Wide Single-Use Carryout Bag Ordinance

Community Development Director de Melo stated that the proposed ban of single-use carryout bags is one of four items proposed by the Green Advisory Committee. He explained that the County of San Mateo is embarking on the enactment of its own ordinance and has invited cities to join its effort, including the environmental review. He clarified that the City of Belmont can proceed with a parallel process to enact its own local ordinance which could adopt the County ordinance by reference.

Councilmember Wozniak stated that she supports joining the County's efforts as it provides consistency. She expressed concern regarding a lack of progress of Belmont's ordinance. She suggested starting the public outreach process.

Community Development Director de Melo concurred that there is merit to starting an outreach program. He stated that a local ordinance could be phased in if adopted ahead of the County's ordinance.

City Attorney Rennie noted that if Belmont adopts a separate ordinance ahead of the County's, it will have to perform its own environmental review, and there is a cost associated with that review. He explained that a local ordinance could be enacted as a voluntary program, to be mandated after the County's ordinance goes into effect.

Susan Wright, Belmont resident, expressed support for joining the County's efforts and for moving forward with a local ordinance.

Mike Swire, Hillsborough resident, expressed support for the County ordinance for consistency purposes. He noted that many cities in California have adopted their own ordinances.

ACTION: On a motion by Councilmember Wozniak, seconded by Councilmember Lieberman, Resolution 2012-018 Confirming Belmont as a Participating Agency in the EIR Process for the

San Mateo County-Wide Single-Use Carryout Bag Ordinance was unanimously approved by a show of hands.

COMMISSION, COMMITTEE, AND COUNCIL INTERGOVERNMENTAL ASSIGNMENT UPDATES, AND STAFF ITEMS

Verbal report from Councilmembers on Intergovernmental (IGR) and Subcommittee Assignments

Councilmember Braunstein noted that the Audit Committee recently met. He explained that Maze and Associates, the City's outside auditor, is in its fifth year of a five-year contract, and that the City will start the Request for Proposal (RFP) process for seeking a new audit contract.

Councilmember Wozniak expressed her appreciation for the efforts of Maze and Associates.

City Treasurer Violet noted that Maze and Associates are a leader in their field. He expressed support for an RFP process for a new contract. He explained that the City of Belmont is usually one of the first in the State to issue its official annual financial report.

Councilmember Lieberman stated that Congresswoman Jackie Speier participated in a recent Belmont-Redwood Shores School District 2+2 meeting where the effect of the dissolution of redevelopment agencies was discussed.

Mayor Warden spoke regarding the recent joint meeting with the Planning Commission on the General Plan Update. He expressed concern that the meeting was not televised, and would like more outreach to the public on subsequent meetings.

Councilmember Wozniak noted that the venue for the joint meeting provided for better dialog on this matter.

Review of City Council Protocols

Due to the lateness of the hour, this matter was tabled to a future Council meeting.

Verbal Report from City Manager

City Manager Scoles stated that he and other staff met with the Belmont-Redwood Shores School District regarding its proposed project at Ralston Middle School. He stated that City Councilmembers now have web access to the Council calendar. He noted the upcoming Neighborhood Association Presidents meeting on February 23rd.

ADJOURNMENT at this time, being 10:48 P.M.

**Terri Cook
City Clerk**